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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/883,619	06/18/2001	Robert Martin Wynalda JR.	1949-A-CIP	5116
45069	7590	07/26/2005	EXAMINER	
FRED ZOLLINGER III P.O. BOX 2368 NORTH CANTON, OH 44720			SIMONE, CATHERINE A	
			ART UNIT	PAPER NUMBER
			1772	

DATE MAILED: 07/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/883,619

Applicant(s)

WYNALDA ET AL.

Examiner

Catherine Simone

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 May 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7-15, 23 and 26-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 7-15, 23 and 26-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 5/4/05 has been entered.

Allowable Subject Matter

2. The indicated allowability of claims 7-15 is withdrawn in view of the newly discovered reference to McKowen (US 3,244,436). Rejections based on the newly cited reference follow.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claim 35 is rejected under 35 U.S.C. 102(b) as being anticipated by Brinkhurst (GB 2 274 452 A).

Brinkhurst discloses a storage container for holding items of recorded media, the storage container comprising a paperboard cover (see page 5, lines 26-27) having a front cover member

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(Fig. 4, #11), a rear cover member (Fig. 4, #12) and an outer spine (Fig. 4, #8) disposed between the front and rear cover members; the spine being a unitary body having an outer surface and an inner surface (Fig. 4, #8); at least the outer surface of the outer spine being exposed for viewing when the cover is closed; a substantially rigid plastic page (Fig. 4, #13; also see page 6, lines 25-27) adapted to hold a pair of disc-shaped items of recorded media (see page 6, lines 16-25); the page having at least one edge connected to the inner surface of the outer spine with an adhesive to connect the page to the cover (see page 4, line 26 to page 5, line 2); and the page having first and second page halves (see page 6, lines 21-25); the first and second page halves having been separately formed and joined together to form the page (see page 6, lines 21-25); each of the page halves having a disc holding hub adapted to hold a disc-shaped item of recorded media (see page 6, lines 6-9 and 14-21).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brinkhurst (GB 2 274 452 A) in view of McKowen (US 3,244,436).

Brinkhurst discloses a storage container for holding items of recorded media, the storage container comprising a cover having a front cover member (Fig. 4, #11), a rear cover member

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(Fig. 4, #12) and a spine (Fig. 4, #8) disposed between the front and rear cover members; a page (Fig. 4, #13) having a structure adapted to hold at least one item of recorded media (see page 6, lines 6-9); the page having at least one edge; the edge of the page being connected to the spine to connect the page to the cover (see page 4; line 26 to page 5 line 7); the front and rear cover members being moveable between open and closed positions; each page being adapted to hold two items of recorded media (see page 6, lines 15-25); each page including two page halves connected together; each page being substantially rigid (see page 6, lines 21-27); and the cover being fabricated from paperboard (see page 5, lines 26-27). However, Brinkhurst fails to disclose the edge of the page connected to the cover being V-shaped in cross section to provide a pocket for the adhesive. McKowen teaches that it is old and well-known in the art to have the edge of pages being V-shaped in cross section (Fig. 1, #12) to provide a pocket for an adhesive (Fig. 1, #18) in order to connect the pages to a book cover. Therefore, it would have been obvious to one of ordinary skill in the art at the time the applicants invention was made to have modified the edge of the page in Brinkhurst to be V-shaped in cross-section to provide a pocket for the adhesive as suggested by McKowen in order to connect the page to the cover.

7. Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brinkhurst (GB 2 274 452 A) in view of McKowen (US 3,244,436) in view of Youngs (US 4,850,731).

Brinkhurst further fails to disclose the page halves being connected together with locking fingers wherein each locking finger is disposed in a pocket to protect the locking finger. Youngs teaches that it is old and well-known in the analogous art to use locking fingers wherein each locking finger is disposed in a pocket to protect the locking finger (see Fig. 4 and col. 8, lines 7-10) for the purpose of securing page halves containing items of recorded media together and

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binding them to a cover. Therefore, it would have been obvious to one of ordinary skill in the art at the time the applicants invention was made to have used locking fingers to connect the page halves together in Brinkhurst as suggested by Youngs in order to secure the pages holding items of recorded media together and bind them to the cover.

8. Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brinkhurst (GB 2 274 452 A) in view of McKowen (US 3,244,436) in view of Udwin et al. (US 6,106,015).

Brinkhurst further fails to disclose the page halves connected together with adhesive and with a weld. Udwin et al. teaches that it is old and well-known in the analogous art to use an adhesive and a weld to connect together page halves containing items of recorded media (see col. 6, lines 5-11 and 55-56) for the purpose of securing the page halves together and binding them to a cover. Therefore, it would have been obvious to one of ordinary skill in the art at the time the applicants invention was made to have used an adhesive and a weld to connect the page halves together in Brinkhurst as suggested by Udwin et al. in order to secure the pages holding items of recorded media together and bind them to the cover.

9. Claims 12-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brinkhurst (GB 2 274 452 A) in view of McKowen (US 3,244,436) in view of Gelardi (US 5,799,782).

Brinkhurst further fails to disclose a literature card abutting the planar portion of the rear surface of each page half and at least one of the page halves being substantially transparent. Gelardi teaches that it is old and well known in the analogous art to have transparent plastic page halves holding disc-shaped items of recorded media provided with four tabs projecting inward from the bottom edges of the side walls of the page halves in order to hold a booklet within the

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page halves (see col. 3, lines 14-16). Therefore, it would have been obvious to one of ordinary skill in the art at the time the applicants invention was made to have modified the page halves in Brinkhurst to be of transparent plastic and be provided with four tabs projecting inward from the bottom edges of the side walls of the page halves as suggested by Gelardi in order to hold a booklet or literature card such that the booklet or literature card abuts the planar portion of the rear surface of the page half holding the item of recorded media.

10. Claims 23 and 26-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brinkhurst (GB 2 274 452 A) in view of Gelardi (US 5,799,782).

Brinkhurst discloses a storage container for holding items of recorded media, the storage container comprising a paperboard cover (see page 5, lines 26-27) having a front cover member (Fig. 4, #11), a rear cover member (Fig. 4, #12) and an outer spine (Fig. 4, #8) disposed between the front and rear cover members; the spine being a unitary body having an outer surface and an inner surface (Fig. 4, #8); at least the outer surface of the outer spine being exposed for viewing when the cover is closed; the front and rear cover members being moveable between open and closed positions; a plastic page (Fig. 4, #13; also see page 6, lines 25-27) having a structure adapted to hold two items of recorded media on opposite sides of the page (see page 6, lines 16-25); the page having at least one edge and an outer perimeter (Fig. 4, #13); the edge of the page being connected to the inner surface of the outer spine with an adhesive to connect the page to the cover (see page 4, line 26 to page 5, line 2); the page being free of connections with the front and rear covers; and the page having first and second page halves (see page 6, lines 21-25); the first and second page halves having been separately formed and joined together to form the page (see page 6, lines 21-25); each of the page halves having a disc holding hub adapted to hold a

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disc-shaped item of recorded media (see page 6, lines 6-9) and a planar portion surrounding the disc holding hub (see Fig. 5). However, Brinkhurst fails to disclose the outer perimeter of the page being directly disposed between the front cover member and the rear cover member when the front and rear cover members are closed on the page and a literature card being disposed between the first and second halves such that the literature card is disposed between the disc shaped items of record media when the disc-shaped items of recorded media are carried by the page halves. Gelardi teaches that it is well-known in the analogous art to have transparent plastic page halves holding disc-shaped items of recorded media provided with four tabs projecting inward from the bottom edges of the side walls of the page halves in order to hold a booklet within the page halves (see col. 3, lines 14-16) and the page being entirely disposed between front and rear cover members when the front and rear covers are closed on the page (see Fig. 13, #23 and #45). Therefore, it would have been obvious to one of ordinary skill in the art at the time the applicants invention was made to have modified the page halves in Brinkhurst to be of transparent plastic and be provided with four tabs projecting inward from the bottom edges of the side walls of the page halves as suggested by Gelardi in order to hold a booklet or literature card such that the booklet or literature card is disposed between the disc-shaped items of recorded media when the disc-shaped items of recorded media are carried by the page halves.

Furthermore, it would have been obvious to one of ordinary skill in the art at the time the applicants invention was made to have modified the front and rear cover members in Brinkhurst to completely cover the page as taught by Gelardi in order for the outer perimeter of the page to be directly disposed between the front and rear cover members when the front and rear covers are closed on the page.

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11. Claim 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brinkhurst (GB 2 274452 A) in view of Gelardi (US 5,799,782) and in view of Udwin et al. (US 6,106,015).

Brinkhurst further fails to disclose the page halves being connected together with a weld. Udwin et al. teaches that is old and well-known in the analogous art to have page halves connected together with a weld (see col. 6, lines 11 and 56) for the purpose of connecting the page halves together to attach to the spine of a binder to form a booklet for storing collectibles such as CDs. Therefore, it would have been obvious to one of ordinary skill in the art at the time the applicants invention was made to have the page halves in Brinkhurst connected together with a weld as suggested by Udwin et al. in order to connect the page halves together to attach to the spine to form a booklet for storing compact discs.

Response to Arguments

12. Applicant's arguments with respect to claims 23 and 26-34 have been considered but are moot in view of the new ground(s) of rejection.

Regarding claim 35, Applicant argues that "claim 35 is patentable over the art in that the claim recites the page is formed of first and second halves that each have a disc holding hub adapted to hold a disc-shaped item of recorded media. The combination of these pages with the recited paperboard cover is not disclosed or suggested by the prior art. The pages of the Brinkhurst references are of a unitary construction." However, it is to be pointed out that the Brinkhurst '452 reference clearly teaches first and second page halves connected together (see page 6, lines 21-25) and each page half having a disc holding hub adapted to hold a disc-shaped

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item of recorded media (see page 6, lines 6-9 and 15-21). Therefore, claim 35 fails to patentably define over the Brinkhurst reference as applied above.


Conclusion

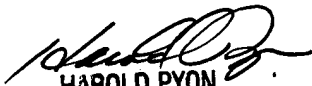
13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Catherine Simone whose telephone number is (571)272-1501.

The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on (571) 272-1498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Catherine A. Simone
Examiner
Art Unit 1772
July 19, 2005


HAROLD PYON
SUPERVISORY PATENT EXAMINER
1772

7/22/05